COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4224-18
Bill No.: Truly Agreed to and Finally Passed SS #2 for SCS for HS for HCS for HB 1268 and 1211
Subject: Employees-Employers; Employment Security; Labor and Industrial Relations Dept., Unemployment Compensation
Type: Original
Date: June 7, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	$0	$0	$0
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Unemployment Compensation Trust Fund	$81,894,147	$136,094,528	$97,928,623
Special Employment Security Fund *	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$81,894,147**	**$136,094,528**	**$97,928,623**

* net of assessments and payments.
Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government *	**($44,546)**	**($208,964)**	**($430,578)**

* excludes interest and debt service cost assessments.

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Office of Administration, Division of Accounting** assume the proposal would have no impact on their organization or on the state General Revenue Fund.

Officials from the **Department of Labor** (DOL) stated:

The administrative impact of the proposal would be relatively low and would be absorbed from the organization's federal operating grant.

Governmental agencies and not-for-profit organizations have the option to reimburse the trust fund in lieu of making quarterly contributions. To more clearly define the impact, the costs are distributed among: (1) cost to local government and (2) cost to the Unemployment Compensation Trust Fund (UCTF). It is the department's understanding that the Office of Administration is responding as to the impact of this proposal on state government.

ASSUMPTIONS (continued)

The proposal would raise the maximum weekly benefit amount (MWBA) incrementally to $320 by 2010, from the current maximum of $250.

The proposal also includes some benefit reductions. Among them are the elimination of compensation for waiting week credits (estimated savings of approximately $23.3 million which amount will change to $15.5 million by 2008), incrementally changing the amount of wages a claimant must have earned in their high quarter to be considered an insured worker (estimated savings of approximately $4 million annually by 2009), eliminating the ability to serve additional penalty weeks for disqualifications, and requiring all disqualified claimants to earn six times their weekly benefit amount (WBA) in subsequent wages to remove the disqualification (estimated savings of approximately $28.9 million), adding provisions relating to drug and alcohol related misconduct (estimated savings of approximately $300,000), changing the way the claimant's WBA is calculated (estimated savings of approximately $4 million in 2006, $7.4 million in 2007, $47.4 million in 2008, $49.2 million in 2009, and $51 million in 2010), and making elected official pay countable as wage when calculating the claimant's weekly benefit amount (unknown).

Finally, the proposal would increase the amount of money a claimant could earn during a week claimed without having his/her weekly benefit amount reduced. Based on calendar year 2001 data, if the amount of earnings allowed without triggering a benefit reduction was increased from $20 to 20% of the claimant's WBA, the resulting estimated increase in benefits for 2005 would be $2,642,512. The estimated cost of this provision in future years would increase as the MWBA is increased. This amount does not include an estimate of benefit savings from claimants who would not have otherwise considered part-time work, and whose part-time work would result in increased hours or full-time employment. The amount of those savings is not known.

Based on 2002 claims data, and considering the proposal would be effective with claims beginning January 2005, the estimated decrease in paid benefits for the provisions listed above would be a savings to the UCTF of $26,786,803 for the last six months of FY 2005; $40,384,962 for FY 2006; and $20,482,434 for FY 2007. Included in these amounts is a savings to local government of $574,309 for the last six months of FY 2005; $865,8540 for FY 2006; and $439,143 for FY 2007.

The Division of Employment Security (DES) believes the overall impact to the UCTF of the proposed changes in the way an acquired business contribution rate is determined would be minimal.

ASSUMPTIONS (continued)

Changing the current trigger amounts for the Contribution Rate Adjustment (CRA) would not have any short term impact. Employers who are taxed at the maximum rate would receive a 40% CRA (in lieu of the current 30% adjustment) in 2005, 2006,and 2007. An additional incremental surcharge is added to the contribution rate of maximum rated deficit employers. The fiscal impact of the 40% CRA and the surcharge on maximum rated deficit employers is included in the contributions numbers below.

Under the proposal, the TWB would be set at $11,000 in 2005, 2006, and 2007; $12,000 in 2008; $12,500 in 2009, and would increase in increments of $1,000 rather than the existing $500 increments. The reduction increments would remain at $500. The proposal would also change the UCTF balance amount which would trigger the TWB changes.

Based on the proposed CRA changes, maximum rated employer surcharge, proposed TWB, and assuming all other factors remain unchanged, it is projected the DES would receive approximately $498,715,839 for 2005, $523,711,997 for 2006 and $536,677,338 for 2007. Assuming that $450 million in bonds are sold and then repaid in three equal installments (calculated at the 150% level) and that any surplus funds are placed into the trust fund, this would leave trust fund balances including outstanding bonded indebtedness of ($210,549,035) for 2005, ($68,203,714) for 2006 and $328,358,072 for 2007.

The estimated increase in UCTF contributions would be $55,107,344 for the last six months of FY 2005; $95,709,566 for FY 2006 and $77,446,189 for FY 2007. Included in these amounts is a cost to local government for increased contributions of $618,855 for the last six months of FY 2005; $1,074,818 for FY 2006 and $869,721 for FY 2007.

The estimated combined fiscal impact of the proposal would be a net income to the UCTF of $81,894,147 for the last six months of FY 2005; $136,094,528 FY 2006; and $97,928,623 for FY 2007. These totals do not take into account differences in estimated interest charges Missouri employers would be assessed for outstanding Title XII loans, amounts employers will be assessed to repay bonded indebtedness, or the amount of any FUTA credit reductions. Implementation of these provisions would cause an estimated savings on Title XII interest charges totaling $23,424,068 in 2005, $30,238,842 in 2006 and $26,554,985 in 2007. Employers would avoid FUTA credit reductions of $62,877,693 in 2005, $235,912,521 in 2006 and $298,633,235 in 2007. Employers would pay $236,342,588 annually in 2005, 2006, and 2007 to repay the bonded indebtedness.

ASSUMPTIONS (continued)

Oversight assumes DES would assess employers under existing statutory authority for interest on federal advances, until the increased employer contributions and/or sale of debt instruments authorized by the proposal would eliminate the federal advances. Oversight assumes that the debt instrument sale would eliminate the interest on federal advances after FY 2006. We note that the proposal would authorize employer assessments for the cost of the newly authorized debt instruments, and would also authorize assessments for debt instrument costs equal to one hundred fifty percent (150%) of the calculated amount required. The proposal also provides a specific method for allocating the one hundred fifty percent debt instrument costs among employers. Oversight assumes that DES would assess only the one hundred fifty percent debt instrument costs needed to service those debt instruments actually issued, and that any collections in excess of the actual debt issue costs would be transferred into the UCTF. That transfer would be made after January 15, 2008 when all debt instruments were retired.

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
SPECIAL EMPLOYMENT SECURITY FUND			
Revenue - employer assessments	$236,342,588	$236,342,588	$236,342,588
Cost - Interest and debt retirement.	($236,342,588)	($236,342,588)	($236,342,588)
ESTIMATED NET EFFECT ON SPECIAL EMPLOYMENT SECURITY FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - State Government	FY 2005 (6 Mo.)	FY 2006	FY 2007
UNEMPLOYMENT COMPENSATION TRUST FUND			
Income - Division of Employment Security			
Increased contributions	$55,107,344	$95,709,566	$77,446,189
Cost Reduction - Division of Employment Security			
Decreased benefit payments	$26,786,803	$40,384,962	$20,482,434
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**$81,894,147**	**$136,094,528**	**$97,928,623**

FISCAL IMPACT - Local Government	FY 2005 (6 Mo.)	FY 2006	FY 2007
LOCAL GOVERNMENTS			
Cost - Increased contributions *	($618,855)	($1,074,818)	($869,721)
Savings - Decreased benefit payments	$574,309	$865,854	$439,143
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS *	**($44,546)**	**($208,964)**	**($430,578)**

* excludes local government allocation of interest and debt service cost.

FISCAL IMPACT - Small Business

Changes in this proposal would affect all employers. Department of Labor and Industrial Relations officials state that the impact on small businesses as a group can not be separately determined.

DESCRIPTION

This proposal would revise employment security laws:

This proposal includes language requiring the Division of Employment Security (DES) to cross-check Missouri unemployment compensation recipients against any federal new hire database. The federal new hire list is currently not available, and would require congressional authorization to provide access to the states. Therefore, this language is only enabling and no fiscal effect can be determined. This proposal also includes language requiring DES to compare data with the federal Social Security Administration as to reported wages, and with the Missouri Department of Revenue Drivers License database.

This proposal also establishes or changes the statutory definition of "insured worker," "misconduct," "temporary help firm," "temporary employee" and "partially unemployed." All of the definitions specified, except for the changes to the definition of "insured worker" and "partially unemployed" are those currently be used by the Division, and would have no fiscal impact. The impact of the changes to "insured worker" and "partially unemployed" definitions are described below.

The Taxable Wage Base (TWB) is currently $7,500 and increases or decreases annually, based upon trust fund balance amounts as of September 30th, less any outstanding federal Title XII advances. The proposal would increase the TWB to $11,000 for 2005, 2006 and 2007; $12,000 in CY 2008 and $12,500 in CY 2009, and the existing cap on the TWB of $10,500 would be increased to $13,000. Currently, the TWB increases by $500 when the balance is less than or equal to $300 million. The proposal would increase the TWB by $1,000 when the balance is less than or equal to $350 million. The amount that would trigger a decrease of the TWB would increase from $450 million to $650 million.

The Maximum Weekly Benefit Amount (MWBA) is currently $250. The proposal would raise the MWBA to $270 in 2006, $280 in 2007, $300 in 2008, $310 in 2009 and $320 in 2010 and subsequent years. The formula for calculating a claimant's weekly benefit amount would be changed to 3.75% of the highest quarterly wages in 2006 and 2007 and 4.0% of the average of the highest two quarterly wages in 2008 and subsequent years.

DESCRIPTION (continued)

The proposal would limit the authority of the Director of the Division of Employment Security (DES) to grant an extended work search waiver to a maximum of sixteen total weeks. A suspension of four weeks or more would be treated as a discharge, and waiting week compensation would be eliminated for 2005, 2006, and 2007. The waiting week would become compensable in 2008 but only when the remaining balance on the claim is equal to or less than the compensable amount for the waiting week.

A claimant dismissed for having a detectible amount of alcohol or controlled substance in their system in violation of the employer's alcohol and controlled substance workplace policy, would be considered to have committed work-related misconduct. Claimants disqualified pursuant to this section would be subject to a cancellation of wage credits.

A claimant would not be credited for additional waiting weeks as a penalty for a disqualification; all claimants disqualified from benefits would be required to return to work and earn six times their weekly benefit amount in subsequent insured wages to remove the disqualification.

An offer of work would be conclusively established if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service.

Beginning in 2007 the amount of wages a claimant may earn while claiming unemployment benefits without having his/her benefit amount reduced would be changed from $20 to twenty (20) percent of his/her weekly benefit amount or $20 whichever is greater. Elected official pay would be countable as wages when calculating a claimant's weekly benefit.

DES would be required to verify the name, date of birth, and social security number at the time of filing an initial claim. If the information does not match what the division has on file the claimant shall file a written affidavit of eligibility prior to payment of additional future benefits. Additionally, DES would be required to cross-check applicants and recipients with Department of Revenue drivers license databases at least monthly beginning in 2007.

When business acquisitions take place on a day other than the first day of a calendar quarter, the existing contribution rate would remain in effect for the remainder of the current quarter and the new rate would be effective the first day of the next calendar quarter.

DESCRIPTION (continued)

Employers who have been taxed at the maximum contribution rate for two consecutive years would have a surcharge of .25% added to their contribution rate; if they continue at the maximum rate in subsequent years an additional .25% surcharge would be added up to a cumulative surcharge of 1.0%. Additionally, if an employer continues to remain at the maximum rate an additional surcharge of .5% would be added, but in no case would the total surcharge exceed 1.5% in any given year.

The proposal would change the trust fund balance amounts in the table that calculates the applicable positive contribution rate adjustments (CRA). In addition, the CRA for 2005, 2006 and 2007 would be 40% for employers at the maximum contribution rate. The proposal would also change the trust fund balance amounts in the table that calculates the applicable negative contribution rate adjustments.

A "credit instrument and financing agreement repayment surcharge." (up to 150% of the amount needed) would be added to employer contribution rates.

DES would be allowed to intercept federal income tax refunds to repay benefit overpayments and delinquent contributions, to the extent allowed by federal law.

The proposal would create a "Board of Unemployment Fund Financing" with the authority to issue up to $450 million in credit instruments and financial agreements. The instruments would have maturity dates not to exceed 3 years from the date of issuance, and could not be outstanding after January 15, 2008. Funds collected to pay the principal, interest, and administration expenses related to the credit instruments and financial agreements would be deposited into the Special Employment Security fund. Funds could not be diverted from the Unemployment Compensation Fund for purposes other than those authorized, and no additional state fund could be established with increased employer taxes that are offset by a reduction of unemployment contributions.

The proposal would create a civil penalty for benefit fraud of 25% of the fraud amount for first time offenders; for subsequent offences the civil penalty would increase to 100% of the fraud amount. Benefit fraud would be a class A misdemeanor for first time offenders with an additional criminal penalty of 100% of the fraud amount, and for a subsequent offense benefit fraud would be a class D felony.

DES would be required to notify all employing units of all changes enacted, by September 30, 2004.

DESCRIPTION (continued)

DES would be allowed to contract with consumer reporting agencies to provide access to information in the quarterly wage reports. The consumer reporting agency would be required to get consent from the individual before sharing this information with any third party.

The proposal would create the "Missouri State Unemployment Council" consisting of nine voting members, three each appointed by the Governor, Speaker of the House and the Senate President Pro Tem. The council would advise the division on the administration of the state unemployment compensation program, prepare and submit an annual report to the Governor and General Assembly, and make recommendations regarding program changes, trust fund solvency, and adequacy of unemployment compensation.

The parts of this proposal which would affect the solvency of the Unemployment Compensation Fund are subject to an emergency clause.

The rest of the proposal would take effect January 1, 2005.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Division of Accounting
Department of Labor and Industrial Relations

Mickey Wilson, CPA
Director
June 7, 2004